

Message Text

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TO AMEMBASSY MANILA PRIORITY

INFO AMEMBASSY BANGKOK PRIORITY

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E.O. 11652: N/A

TAGS: ETRD, RP

SUBJECT: COTTON CONTRACT PROBLEM

BANGKOK FOR MICHAEL B. SMITH

1. WE UNDERSTAND THAT YUPANGO COTTON MILLS IS REFUSING TO OPEN L/C'S ON 7500 BALES OF COTTON ON ANNEX ON GROUNDS OF UNRESOLVED QUALITY CLAIM ON U.S. SHIPPER CONCERNED, COTTON IMPORT AND EXPORT COMPANY (CIEC). YUPANGO ACCORDING TO REPORTS HERE HAS SUED CIEC IN PHILIPPINE COURTS IN CONNECTION WITH CLAIM, AND WILL OPEN L/C'S ONLY WHEN COURT CASE IS DECIDED. CIEC HAS NOT RPT NOT BEEN NOTIFIED OF SUIT AND NO REQUEST HAS BEEN MADE TO ARBITRATE QUALITY CLAIMS ACCORDING TO TERMS OF CONTRACT.

2. U.S. SHIPPER BELIEVES YUPANGO IS USING QUALITY CLAIM

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AS EXCUSE FOR NOT RPT NOT OPENING L/C'S. HIS CONTENTION

SEEMS TO BE SUPPORTED BY FACT THAT: 1) YUPANGO HAS ALREADY SPUN COTTON IN QUESTION 2) NO REQUEST FOR ARBITRATION WAS MADE WHEN MILL RECEIVED COTTON. UNDER ARBITRATION PROCEDURES, THIRD PARTY SHOULD HAVE DRAWN CERTIFIED SAMPLES WITHIN THIRTY DAYS OF RECEIPT OF COTTON BY MILL (JULY 30, 1974 IN THIS CASE). U.S. SHIPPER BELIEVES THIS WAS NOT RPT

NOT DONE, BUT IF IT WAS, HE IS WILLING TO SUBMIT CLAIM TO ARBITRATION. 3) YUPANGO HAS NOT NOTIFIED SHIPPER OF SUIT.

3. BACKGROUND OF PROBLEM, AS WE HAVE IT, IS AS FOLLOWS: FIRST SHIPMENT OF 474 BALES TOOK PLACE IN MARCH 1974. YUPANGO ASKED FOR ARBITRATION ON QUALITY CLAIM, CLAIM WAS SUSTAINED IN FEBRUARY, 1975, AND SHIPPER PAID AWARD, WHICH WAS UNDER 1,000 DOLLARS, TO MILL WHICH MILL REFUSED TO ACCEPT. SECOND TWO LOTS OF 474 BALES AND 469 BALES SHIPPED MAY 30, 1974 AND ARRIVED JULY 30, 1974, CONTAINED COTTON NOW IN QUESTION.

4. PRIMA FACIE EVIDENCE SEEMS TO INDICATE BAD FAITH ON MILLS PART. EXCUSE FOR NOT RPT NOT OPENING L/C IS QUALITY CLAIM DATING FROM JULY-AUGUST 1974 FOR WHICH ARBITRATION, AS PROVIDED IN CONTRACT, WAS NOT REQUESTED. NOW, COURT CASE PROMISES FURTHER DELAY.

5. MORE IMPORTANT AND TO THE POINT, THIS QUALITY CLAIM CANNOT BE CONSIDERED REASON FOR GOP NOT RPT NOT TO CARRY OUT RESPONSIBILITIES UNDER ASSURANCES. EMBASSY SHOULD, THEREFORE, PRESS GOP TO SEE THAT L/C'S ARE OPENED FOR COTTON WHICH YUPANGO HAS ON ANNEX. KISSINGER

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